

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

**IN RE: JEFF SCOTT DEHN
 and LEIGH ANN DEHN**

**4:02-bk-14213E
CHAPTER 13**

**JEFF SCOTT DEHN
and LEIGH ANN DEHN**

PLAINTIFFS

V.

AP NO.: 4:02-ap-1108

ARKANSAS FEDERAL CREDIT UNION

DEFENDANT

ORDER DENYING MOTION FOR TURNOVER AND CONTEMPT

_____ Debtors' Motion for Turnover and Contempt was heard on July 10, 2002, and the Court took the matter under advisement. Paul A. Schmidt, Esq. appeared for the Plaintiffs and Debtors, Jeff Scott and Leigh Ann Dehn. M. Wade Hodge, Esq., appeared for Defendant, Arkansas Federal Credit Union ("AFCU"). Natasha Graf, Esq., was present on behalf of the standing Chapter 13 Trustee, Joyce Bradley Babin.

Upon consideration of the pleadings and stipulated facts presented in open court, the Court denies the Debtors' Motion for Turnover and Contempt. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(E), and the Court has jurisdiction to enter a final judgment in this case. The following constitutes findings of fact and conclusions of law in accordance with Federal Rule of Bankruptcy Procedure 7052.

The Debtors filed for relief under Chapter 13 of the Bankruptcy Code on April 15, 2002. The Debtors have a checking and/or savings account with AFCU (the "**Account**"). The Debtors have

also borrowed funds from AFCU on two separate loans which are currently in default. AFCU has placed an administrative freeze on the Account such that Debtors may not withdraw funds from the Account. The Debtors claimed the funds in the Account as exempt on their bankruptcy schedules. The Debtors also contend that the funds in the Account are necessary for the Debtors' reorganization so that they may fund their Chapter 13 plan and pay living expenses. The Defendant was notified of the Debtors' bankruptcy filing, and although Debtors have made both written and verbal demands to retrieve the funds, the administrative freeze has not been lifted.

The Debtors assert the Defendant's freeze on the Account violates the automatic stay under 11 U.S.C. § 362(a). The Defendant asserts that the administrative freeze on Debtor's Account is not a set-off, and therefore does not violate the automatic stay under 11 U.S.C. § 362(a)(7). Defendant cites *Citizens Bank v. Strumpf*, 516 U.S. 16, 116 S. Ct. 286 (1995), and *In re Hoffman*, 51 B.R. 42 (Bankr. W.D. Ark. 1985), in support of its argument.

The Court has reviewed the case law cited by the Defendant, and finds it to be controlling. The authorities cited clearly hold that an administrative freeze on a debtor's account does not constitute a setoff under 11 U.S.C. § 362(a)(7) or otherwise violate the automatic stay. Accordingly, the Court finds that AFCU's administrative freeze on the Debtor's Account does not violate the automatic stay imposed by 11 U.S.C. § 362(a).

Debtors' Motion for Turnover and Contempt is **DENIED**.

IT IS SO ORDERED.

HONORABLE AUDREY R. EVANS
UNITED STATES BANKRUPTCY JUDGE

DATED: _____

cc: Mr. Paul A. Schmidt, Esq. for Plaintiffs and Debtors
Mr. M. Wade Hodge, Esq. for Defendant
Ms. Joyce Bradley Babin, Chapter 13 Trustee
U.S. Trustee